

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

v.

JAMES E. FRACTION, JR.,

Defendant.

Crim. No. 95-597 (WJM)

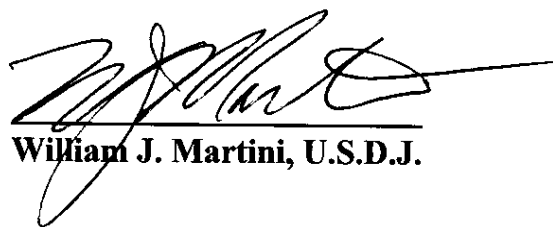
ORDER

HON. WILLIAM J. MARTINI

Defendant having been convicted and sentenced in this matter by the District Court; Defendant having been remanded by the District Court to the custody of the Federal Bureau of Prisons; Defendant now filing a Petition for Writ of Error Per: Audita Querela and the All Writs Act, 28 U.S.C. § 1651; Defendant asserting that the District Court lacked subject-matter jurisdiction to impose his sentence; this argument constituting a claim cognizable in a motion under 28 U.S.C. § 2255; Defendant further asserting that the Federal Bureau of Prisons has no valid legal authority to maintain custody of him; this argument constituting a claim cognizable either under 28 U.S.C. § 2255 or 28 U.S.C. § 2241; the writ of *audita querela* thus being unavailable to Defendant, see Shelton v. United States, 201 F. App'x 123 (3d Cir. 2006); and good cause appearing;

IT IS on this 15th day of July 2008 hereby

ORDERED that Defendant's motion is **DENIED** without prejudice to Defendant's rights to file a motion under either 28 U.S.C. § 2255 or 28 U.S.C. § 2241.



William J. Martini, U.S.D.J.